

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10119 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SHARDABEN C RAWAL

Versus

DIRECTOR OF PRIMARY EDUCATION

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Appearance:

MR YS MANKAD for Petitioners

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/04/99

ORAL JUDGEMENT

#. The petitioners are praying for issuance of directions to respondent to treat them as regular permanent full time employees from 1.4.79 in the pay scale of Rs.200-260 and then fix their pay payable from time to time and give them the pay in the pay-scale of Rs.750-940 together with all the attendant benefits such as D.A. etc. from the date of G.R. dated 1.10.88 and

pay all the arrears payable till today and count and pay the pension and retirement benefits also on that basis.

#. This writ petition has come up for admission before this Court on 13th December 1996. Looking to the nature of the grievance made and the prayer made by petitioners, this Court has thought of deciding this matter at the admission stage and accordingly a notice was issued to the respondents, returnable on 8th January 1997, but on 8th January 1997 as the respondents were not served the matter was adjourned to 22nd January 1997. On 22nd January 1998 as reply has not been filed the matter has been admitted and the Court has ordered for listing this matter for final disposal on 14th February 1997 in the second board. Thereafter once this matter has been placed on the Board for hearing on 14th February 1997 as it what reflects from the record of this case. More than two years thereafter have passed but the respondents have not cared to file reply to the special civil application. So the averments made by petitioners in this special civil application have not been controverted by respondents. It is really shocking that nobody is also present on behalf of respondents. At this stage Mr.Hasmukh Patel puts appearance and he prays for adjournment of this matter. So whatever it may be, that is the contribution by the State Government in these matters. It is unfortunate for the State of Gujarat as well as for the people of the State that despite of setting of budget of 1.19 crores for defending litigations by or against it, this is the total defence which is taken by the State of Gujarat before this Court. This amount of Rs.1.19 crores could have been better utilised for the development of the State so that the citizens would have got more benefits and amenities.

#. Be that as it may, the respondent No.2 is directed to treat this special civil application to be the representation and pass a reasoned order where it is not agreeable to the prayer made by petitioners therein, and then communicate that order to the petitioners by registered post A.D. This decision has to be taken by respondent No.2 within a period of fifteen days from the date of receipt of writ of this order. In case the petitioners are found eligible for the pay scales etc., necessary order for fixation of their pay has to be passed within a period of fifteen days thereafter and within the fifteen days next, the arrears of fixation payable to the petitioners has to be determined and simultaneously decision may also be taken whether they are entitled for grant of pension or not, as what the learned counsel for the petitioners submits that all the

petitioners have already retired from services. Arrears on fixation of salary and pension and other retirementary benefits be paid to the petitioners within one month next. In case of difficulty, liberty is granted to the petitioners for revival of this special civil application merely on filing a note. A copy of this order alongwith one set of xerox copy of the paper-book, be sent to the respondent No.2 forthwith. The special civil application and Rule stand disposed of in aforesaid terms with no order as to costs.

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(sunil)